



October 6, 1999

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR99-2835

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129080.

The City of Garland (the "city") received a request for notices and "neighbor complaints" regarding a certain resident's violation of property maintenance ordinances. You claim that you have released some of the requested information, but that the remainder of the information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The "informer's privilege," incorporated into the Public Information Act by section 552.101,<sup>1</sup> has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

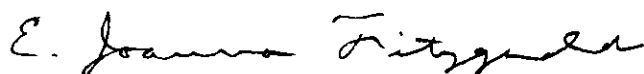
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<sup>1</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

You state that the submitted complaint "clearly reports property maintenance violations" of city ordinances. Moreover, you explain that the person to whom the complaint is addressed is a city Code Enforcement inspector. Based on these statements and on our review of the submitted information, we agree that portions of the complaint are excepted from disclosure under section 552.101 of the Government Code in conjunction with the informer's privilege. However, we believe that the bracketed language must be released as it does not tend to reveal the complainant's identity. *See Open Records Decision No. 515 at 2 (1988).*

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, reading "E. Joanna Fitzgerald".

E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF\nc

Ref: ID# 129080

Encl: Submitted documents

cc: Ms. Kimberly Van Kirk  
622 Dawn Drive  
Garland, Texas 75040  
(w/o enclosures)